



Appeal Decision

Site visit made on 7 January 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2025

Appeal Ref: APP/Y3425/W/24/3348514

100 Newcastle Road, Stone, Staffordshire ST15 8LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Cheadle against the decision of Stafford Borough Council.
 - The application Ref is 23/38287/FUL.
 - The application sought planning permission for a car wash without complying with conditions attached to planning permission Ref 13/18949/FUL, dated 28 November 2013.
 - The conditions in dispute are:
 - No 3 which states that: *No power tools or machinery shall be used at the premises other than portable hand tools contained within the building.*
The reason given for the condition is: *To safeguard the amenities of the area.*
 - No 5 which states that: *No external plant or machinery shall be installed at the premises without the prior permission of the local planning authority.*
The reason given for the condition is: *To safeguard the amenities of the area.*
 - No 6 which states that: *The operations hereby approved shall only take place between the hours of 09.00 to 17.00 Monday to Saturday and 09.00 to 16.00 on Sundays.*
The reason given for the condition is: *To safeguard the amenities of the area.*
 - No 7 which states that: *The car wash and valeting operations shall only be undertaken within the building.*
The reason for the condition is: *To safeguard the occupiers of nearby residential properties from undue noise and general disturbance.*
 - The development proposed is the removal of conditions 3,5,6,and 7.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 12 December 2024. I have considered its amendments against the earlier version and against the parties' appeal evidence. I have also updated Framework paragraph numbers where necessary. However, I have not gone back to the parties for comment, as I do not consider the Framework changes to be substantive or determinative to the outcome of this appeal.
3. The original planning permission, approved in 2013, was considered against Policy E&D1 of the Stafford Borough Local Plan (2001). Owing to the duration of time since the permission was issued this appeal now falls to be determined against Policy N1 of The Plan for Stafford Borough (2014).

4. The Council advises that subsequent to granting permission for the car wash, a further permission was granted for open sided valeting bays in the yard to be used in association with the car wash business (Permission Ref.16/24644/FUL). A condition requires the vacuum units to be placed in the main car wash building with underground ducting as shown on the approved drawing.
5. The appellant considers that the conditions under appeal are unnecessary as framed as the use has existed on the whole of the site for a considerable period and that conditions 5,6 & 7 have not been complied with from the outset. It is further suggested that there have been no complaints until recently and the Council has not been able to substantiate any complaint with evidence. In particular, in relation to conditions 3 and 5, the appellant considers that some cleaning equipment such as vacuum cleaners used in the valeting bays need to be located outside of the main building, away from the car washing, for health and safety reasons.
6. The appellant also considers that these conditions fail the test of reasonableness as condition 6 imposes office hours on a commercial operation which should be allowed to operate between 8.30am-6pm. Also, that condition 7 renders almost half of the site to be unusable.
7. The appellant's appeal statement confirms that conditions are necessary to control the development and has suggested three alternative conditions, in place of those under appeal, to form the basis of an acceptable varied permission. These would relate to opening hours, specifying external plant or machinery and sound mitigation for vacuum cleaners. However, the evidence before me indicates that the wording of these proposed conditions was not suggested during the determination of the planning application. Whilst these revisions may well assist in resolving the issues under dispute, and the Council briefly refers to them in its appeal statement, I have no assurance that the Council, their consultees or nearby residents have been able to appropriately consider and comment on the suggested revision to the conditions.
8. Accepting these revised conditions at this stage of the appeal appears to seek to evolve the scheme and may therefore prejudice the Council or other parties from being able to consider them properly. Consequently, I have not taken account of the suggested revised conditions in reaching my decision.

Main Issue

9. The main issue is whether the conditions are reasonable or necessary in order to safeguard the living conditions of nearby residents with particular regard to the potential for noise and disturbance.

Reasons

10. The appeal site comprises a yard enclosed on three sides by brick walling with the main building comprising a single storey brick structure with its gable facing the road. The site is located within a predominantly residential area, with a mixture of terraced and semi-detached housing situated alongside and on the opposite side of Newcastle Road. The Trent and Mersey Canal is to the rear.
11. The site is in use as a car valet business which gained planning permission in 2013 and was formerly a car sales operation. The 2013 planning permission was

subject to several conditions considered necessary to protect nearby residential occupants from unacceptable levels of noise and disturbance. In broad terms they seek to ensure that appropriate machinery is contained within the main building and restrict operational hours. The Appellant states that the site has been successfully used since 2013.

12. Although the appellant suggests that the business has been operating without adhering to these conditions for some time without complaint, several representations received from nearby residents show significant levels of concern. They speak of being able to clearly hear the noise of machinery and powerful pressure washers, even from several dwellings away and from the occupiers of leisure moorings on the canal. Others mention the disturbance spoiling time spent in the garden, the operation of the business over seven days a week giving no respite from relentless noise, and noise from cars queueing up to be washed. Some mention that in the warmer months, occupants' can hear the noise and disturbance within their homes when windows and doors are open. There is also mention of pressure washing outside the building which considerably increases the noise. A nearby resident speaks of making complaints multiple times over the last few years.
13. On site, I saw the proximity of some of the dwellings, with several rear gardens running alongside and parallel to the appeal site. From the canal towpath to the rear, I could see that many of these gardens have patios, including the adjacent dwelling which also has a first floor sitting out area. During my visit, I observed the washing equipment within the main building and noted the large opening in either end of the building where vehicles enter and exit. Valet cleaning equipment included a vacuum cleaner located under the lean-to canopy.
14. Despite the relatively busy road, there was little other background noise in this mainly residential area. Although no vehicles were being actively washed or cleaned whilst I stood in the yard, I heard activities on the appeal site later when I stood on the canal towpath. From here, to the rear of the appeal site, I could see and clearly hear a vehicle being washed. I noticed intermittent, loud bursts of noise from pressure washers with some lengthy periods of pressure washing. The noise was particularly apparent given the underlying peaceful nature of the surrounding area around the canal, and the noise appeared to resonate between the buildings. Although this was just one snapshot in time and it was unlikely that a cold, winter morning would be a busy time for a car wash, it was very apparent to me that the washing of a vehicle could be a noisy activity. It would not be unreasonable to assume that on warmer days, especially in the summer, that there would be much more activity on the site. This would more than likely coincide with residents opening windows and making more use of their gardens. I have no doubt that in addition to pressure washing, the noise of moving vehicles, starting and stopping of engines, closing of vehicle doors and the unpredictability of the noise over a prolonged period would add to the overall noise and disturbance generated from the site.
15. Therefore, taking account of all that I saw and heard, including the officer assessment and compelling representations from nearby residents, the operations as they stand are already causing clear harm to the living conditions of nearby residents. This appears to have been the case for some time.

16. There may be functional and financial reasons for not installing vacuum equipment within the main building, (as required by Permission Ref.16/24644/FUL). However, I have few details to demonstrate why the operation would not work in accordance with the details shown on the approved drawing. Furthermore, this is not an adequate reason for allowing an operation which may cause noise disturbance to nearby occupants.
17. If condition 3 was removed, there would be an unrestricted use of any type of power tools and machinery at the site which could also be used outside in the yard. As the washing and valeting of vehicles can be a noisy activity, it is highly likely that the removal of this condition could result in a significant increase in the noise and disturbance generated on the site affecting nearby residents.
18. If condition 5 was removed, the business operator could install an unlimited amount of external plant or machinery with unrestricted noise levels. This could give rise to a significant increase in noise levels affecting nearby residents.
19. If condition 6 was removed, the vehicle cleaning operation could be carried out year-round and up to 24 hours a day. This would be wholly inappropriate for such an operation close to neighbouring residential properties.
20. If condition 7 was removed, vehicle cleaning operations could be carried out anywhere on the site meaning that noise from machinery and equipment would not be muffled by the building. If the condition was removed it is therefore likely that there would be a significant increase in noise levels and disturbance affecting nearby residents.
21. The Council notes that at the time of the original permission, a submitted noise assessment provided reassurance that, with the conditions imposed, the development would be acceptable. It does not appear to me that the conditions were challenged at the time of this permission. Furthermore, I have not been presented with an adequate noise or acoustic assessment, equipment specifications or proposed mitigation to justify the proposed removal of the conditions.
22. The removal of the conditions would be likely to result in a significant increase in noise levels generated on the site which would be exacerbated by longer periods of time due to the restriction on operational hours being removed. This would result in unacceptable levels of noise and disturbance to the surrounding residential occupants. I find that each of the contested conditions are therefore reasonable and necessary for nearby residents to have a reasonable expectation of the peaceful enjoyment of their homes. The impact of removing them would be so severe as to warrant refusal. All the conditions therefore remain necessary to make the development acceptable.
23. I therefore conclude that conditions 3, 5, 6 and 7 are reasonable or necessary in order to safeguard the living conditions of nearby residents with particular regard to the potential for noise and disturbance. The development would conflict with Policy N1 of The Plan for Stafford Borough which states that, amongst other things, development takes account of noise implications and the amenity of adjacent residential areas. It would also conflict with the Framework which seeks to ensure a high standard of amenity for existing occupants.

Other Matters

24. The appellant's planning statement may not have been visible on the Council's website, but I have little reason to consider that this would make a difference to the representations received.

Conclusion

25. The proposal would not accord with the development plan as a whole, and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR